

CHAPTER NO. 681

HOUSE BILL NO. 3635

By Representatives McDaniel, Curtiss, Hargett, Todd, Baird, Pleasant

Substituted for: Senate Bill No. 3207

By Senators Tracy, Norris, McLeary

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 5, and to enact the "Broadband Business Certainty Act of 2006".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 5, is amended by inserting Sections 2 through 4 below as a new, appropriately designated part thereto.

SECTION 2. This part shall be known and may be cited as, the "Broadband Business Certainty Act of 2006".

SECTION 3.

(a) As used in this part, "broadband services" means any service that consists of or includes a high-speed access capability to transmit at a rate that is not less than two hundred (200) kilobits per second, either in the upstream or downstream direction and either:

(1) Is used to provide access to the Internet; or

(2) Provides computer processing, information storage, information content or protocol conversion, including any service applications or information service provided over such high-speed access service.

"Broadband services" does not include intrastate service that was tariffed with the Tennessee regulatory authority and in effect as of the effective date of this act.

Furthermore, such intrastate service shall not be reclassified, bundled, de-tariffed, declared obsolete or otherwise re-characterized to avoid the imposition of inspection fees by the Tennessee Regulatory Authority.

(b) Nothing in this act shall permit any carrier to treat services that constitute telecommunications services under federal law as non-telecommunications services for any purpose under state law.

(c) Nothing in this act shall alter or affect the jurisdiction of the Tennessee regulatory authority to arbitrate or hear complaints related to anti-competitive pricing of regulated services or interconnection agreements between carriers pursuant to Section 251 and 252 of the Federal Telecommunications Act.

(d) Nothing in this act shall alter or affect any jurisdiction or authority of the Tennessee regulatory authority to act in accordance with federal laws or regulations of the Federal Communications Commission, including, without limitation, jurisdiction granted to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements.

(e) Nothing in this act shall alter or affect in any manner the regulation of cable television as established elsewhere in Tennessee law.

SECTION 4. In order to ensure that Tennessee provides an attractive environment for investment in broadband technology by establishing certainty regarding the regulatory treatment of such technology, consistent with the decisions of the federal communications commission to preempt certain state actions that are not in accordance with the policies developed by the federal communications commission, the Tennessee regulatory authority shall not exercise jurisdiction of any type over or relating to broadband services regardless of the entity providing the service except as provided in Section 3(a) of this act.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 4, 2006


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 15th day of May 2006


PHIL BREDESEN, GOVERNOR